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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FILED

08 AUG 28 AM 10:40

UNITED STATES OF AMERICA,

Plaintiff,

v.

Gregorio HERNANDEZ-Viviano,

Defendant

Magistrate Docket No.

'08 MJ 2652

COMPLAINT FOR VIOLATION OF:


Title 8, U.S.C., Section 1326  
Deported Alien Found in the  
United States

DEPUTY

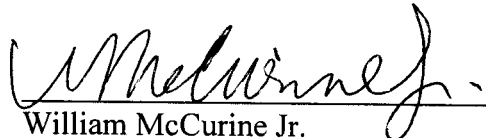
The undersigned complainant, being duly sworn, states:

On or about **August 27, 2008**, within the Southern District of California, defendant, **Gregorio HERNANDEZ-Viviano**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

  
SIGNATURE OF COMPLAINANT  
James Trembley  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 28th DAY OF AUGUST 2008.

  
William McCurine Jr.  
UNITED STATES MAGISTRATE JUDGE

DOA  
8/27/08  
ECL

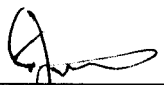
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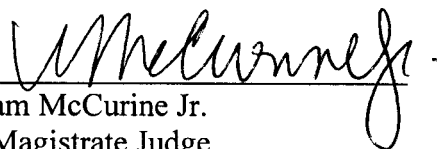
**CONTINUATION OF COMPLAINT:**  
**Gregorio HERNANDEZ-Viviano**

**PROBABLE CAUSE STATEMENT**

On August 27, 2008, Border Patrol Agent J. Daniels was performing his assigned duties in the Campo Border Patrol Station area of operations. At approximately 6:30 a.m. Agent Daniels was driving the border road near an area known as "Twin Towers". This area is approximately eighteen miles east of the Tecate, California Port of Entry and approximately half a mile north of the United States/Mexico International Border. Agent Daniels was able to find fresh footprints for approximately twelve individuals heading north from the border. Agent Daniels followed the footprints for approximately one hour when he found twelve individuals trying to hide including one who was later identified as the defendant **Gregorio HERNANDEZ-Viviano**. Agent Daniels approached the individuals and identified himself as a United States Border Patrol Agent and began to question each individual as to their immigration status. All twelve admitted to being citizens and nationals of Mexico without any immigration documents allowing them to enter or remain legally in the United States. Each of the twelve illegal aliens including the defendant were arrested at approximately 7:30 a.m. and transported to the Campo Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on October 15, 2001 through Laredo, TX**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

  
\_\_\_\_\_  
James Trombley  
Senior Patrol Agent

  
\_\_\_\_\_  
William McCurine Jr.  
U.S. Magistrate Judge

8/28/08  
Date